

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
AIR AND RADIATION DIVISION
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

In the Matter of: A. Finkl and Sons Company
CONFERENCE PURSUANT TO SECTION 113 OF THE CLEAN AIR ACT
June 11, 2003

U.S. EPA OPENING STATEMENT

Pursuant Section 113 of the Clean Air Act ("Act"), and upon the request of Respondent, A. Finkl and Sons Company, U.S. EPA is providing Respondent this opportunity to confer with U.S. EPA regarding the Notice and Finding of Violation (NOV/FOV) issued on March 31, 2003, which alleges that Respondent has violated both the federally-approved state implementation plan ("SIP") for the State of Illinois in violation Section 113(a)(1) of the Act and the Standards of Performance for Steel Plants, 40 CFR Part 60, Subpart AAa, in violation of Section 111 of the Clean Air Act, 42 U.S.C. § 7411.

Regulatory Background

In accordance with the Act, U.S. EPA has established national ambient air quality standards ("NAAQS") for criteria air pollutants. The NAAQS establish primary standards to protect the public health and secondary standards to assure public welfare. The Act required each state to submit to U.S. EPA for approval a SIP that provides for the implementation, maintenance and enforcement of NAAQS in each air quality control region in each state. The Act provides that U.S. EPA approval of a SIP makes all the requirements of that SIP enforceable by the federal government.

Section 111(e) of the Act provides that after the effective date of a standard it is unlawful for any owner or operator of any new source to operate such source in violation of that standard.

Section 111(a)(2) of the Act, defines the term "new source" as any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance applicable to such source.

Section 111(a)(4) of the Act defines "modification," in pertinent part, as "any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source" "Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere."

Section 113(a)(3) of the Act provides that where U.S. EPA finds that any person has violated or is in violation of any requirement or prohibition of, among other things, any rule promulgated under the Act, the Administrator may:

- (A) issue an order requiring compliance with the requirements or prohibitions of the Act;
- (B) issue an administrative penalty order;
- (C) bring a civil action for injunctive relief and/or assessment and recovery of civil penalties; or
- (D) request the Attorney General to commence a criminal action.

Penalty Provisions

Sections 113(b) and 113(d) of the Act provides that violators are subject to civil penalties of \$27,500 per day, per violation.

Section 113(c) of the Act provides for criminal fines and imprisonment where any person, including any responsible corporate officer, knowingly violates certain provisions of the Act. In appropriate cases, U.S. EPA may seek non-compliance penalties under Section 120 of the Act. Finally, Section 306 of the Act, as implemented by 40 CFR part 32, provides that facilities in

violation of the Act may be ineligible for federal contracts, grants or loans.

Compliance

U.S. EPA will be most interested today in determining the specific actions Respondent has taken and will take to ensure that it achieves and maintains compliance with the Act. Respondent may also advise the Agency at this time of any other factors it believes U.S. EPA should consider before taking further actions to address the alleged violations.

Standard bcc's: official file copy w/attachment(s)

Other bcc's:

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